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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 674 OF 2007

The Chairman,
Ahilyadevi Urban Co-op. Bank Ltd.,
Solapur & anr. ... Petitioners

V/s

Devanand Namdeo Kale ... Respondent

Ms. Seema Sarnaik for the petitioners.

Mr. G.S. Godbole with Nitin Mulye for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 25TH JULY, 2007.

P.C.:

1. This petition challenges the orders of the Labour Court and the Industrial Court in revision. The Labour Court's order has been passed on Exh. C-14 in Complaint (ULP) No. 71 of 2004. The petitioners had sought an order from the Labour Court directing the respondent workman to subject himself to the visual field test. This application has been rejected by the Labour Court. The Industrial Court has taken the same view in the revision application.

2. The respondent workman has filed a complaint under Item 1 of Schedule IV of the M.R.T.U. & P.U.LO.P. Act contending that his services were wrongfully terminated. The petitioners have resisted the complaint by pleading that that the respondent workman had abandoned his services. Various reasons are stated for abandonment of service. Thus the controvery before the Labour Court is whether the respondent workman had abandoned his service or whether the petitioner had in fact terminated his services with effect from a particular date.

3. There is already a cessation of the services of the respondent workman on a particular date either on account of termination or abandonment. Thus, whether or not the respondent workman undergoes the visual field test at this stage would make no difference to the controversy before the Court. The submission on behalf of the petitioners is that the result of such a test would indicate that the respondent workman had abandoned his services, cannot be countenanced. The result of the visual field test held today would not indicate as to whether the respondent workman had abandoned his services on the relevant date.

4. Cogent reasons have been given by both the Courts below for refusing the application of the petitioners.

Significantly, this application has been filed after the evidence of the respondent workman is complete and the petitioners witness has been cross-examined.

5. In this view of the matter, the petition is rejected.

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